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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/821,499

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James D. Webb

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EXAMINER

COBANOGLU, DILEK B

ART UNIT

PAPER NUMBER

3626

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,499	<b>Applicant(s)</b> WEBB ET AL.	
	<b>Examiner</b> DILEK B. COBANOGLU	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Notice to Applicant**

1. This communication is in response to the amendment received on 10/05/2009. Claims 1, 4-20 remain pending in this application.

### ***Response to Arguments***

2. Applicant's arguments filed 10/5/2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. Applicant argues that: Trusheim does not teach "the translation web service and receiving a request for one of a plurality of formats, and returning medical data in the requested output format". Examiner respectfully submits that Trusheim teaches "a translator, where source data files may be transferred to translator via the internet,...the translator ... receives a data file having a first format and translates the data file into an output file having a second format. And maps used by the translation program to translate data files from the first format to the second format. ...." (In col. 8, lines 1-15). Trusheim continues "the present invention can be used in conjunction with any system for passing data among various applications" in col. 8, lines 65-67 and "Bus adapter 35a is provided to integrate translator 31 and translated data files 32 with information bus 34...Bus adapter 35a and rendezvous daemon 36 may also work together to subscribe to messages on information bus 34, and to pass these messages through translator

31 for storage in source data files 30 in an appropriate legacy data format” and in col. 9, lines 1-23.

B. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Nelson teaches information network interrogation of an implanted device, the communication system permits communication between implanted medical device and a computing resource capable of storing and distributing patient and device data (Nelson; abstract); Nelson fails to expressly teach “plurality of web services and Stawikowski teaches this feature. Stawikowski teaches “a communication system on a global network of the Internet, Intranet or Extranet type, between at least one automation equipment offering one or more automatic control functions and at least one remote device, allowing the Simple Object Access Protocol (SOAP) to be used in an automation equipment, by means of at least one WEB service and/or one WEB client able to interact with a program of the automation equipment.” In paragraph 0001. The motivation to combine these references would be to be able to exchange data directly on an IP network (Stawikowski; par. 0006). Also, Nelson fails to expressly

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teach a translation web service, which changes the format of the data; however Trusheim teaches “web service” in col. 11 line 24 to col. 12, line 11, and “a translator, which receives data file having a first format and translates the data file into a second format” in col. 8, lines 1-15 and Trusheim teaches changing the format of the data in col. 9, lines 1-23 as explained above. The motivation to combine these references would be to translation data files into a common format (Trusheim; col. 8, lines 1-15), and in an appropriate legacy data format (Trusheim; col. 8, lines 58-62, col. 9, lines 19-23).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745 B2), Stawikowski et al. (hereinafter Stawikowski) (U.S. Patent Publication No. 2002/0046239 A1) and further in view of Trusheim et al. (hereinafter Trusheim) (U.S. Patent No. 6,385,589 B1).

A. Claim 1 has been amended now to recite a system for exchanging medical data, the data exchange system comprising:

- i. means for acquiring medical data (Nelson; col. 5, lines 14-31);
- ii. means for handling medical data wherein medical data may be stored, analyzed, or displayed (Nelson; col. 7, lines 21-39);

iii. one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring medical data and the means for handling medical data, wherein one of the web services is a translation web service having an input method configured to receive medical data in a first format and configured to return the medical data in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data to the invoking application in the requested output format.

(1) Nelson fails to expressly teach one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring data and the means for handling data. However, this feature is well known in the art, as evidenced by Stawikowski.

In particular, Stawikowski discloses one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring data and the means for handling data (Stawikowski; abstract, paragraphs: 0001-0002, 0004-0007).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as

disclosed by Stawikowski with the motivation of to be able to exchange data directly on an IP network (Stawikowski; paragraph: 0006).

(2) Nelson and Stawikowski fail to expressly teach “a translation web service having an input method configured to receive medical data in a first format and configured to return the medical data in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data to the invoking application in the requested output format”. However, this feature is well known in the art, as evidenced by Trusheim.

In particular, Trusheim discloses this feature in col. 8, lines 1-15, col. 11, line 25 to col. 12, line 11, fig. 3. Also, in col. 9, lines 1-23 as explained above in the “response to arguments section”.

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Trusheim with the motivation of translation data files into a common format (Trusheim; col. 8, lines 1-15).

5. Claims 4-14 and 16-20 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 4-14 and 16-20 are

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rejected for the same reasons given in the previous Office Action (paper number 5-9), and incorporated herein.

6. The amendment to system claim 19 reflect the same changes made to system claim 1, and is therefore rejected for the same reasons given above for system claim 1 in addition to the reasons given in the prior Office Action (paper number 9).

7. Claim 20 has been amended now to recite “the medical device, wherein the medical device is configured to store medical data and transfer the data via a communication connection (Nelson; abstract, col. 5, line 66 to col. 6, line 34 and figure 2); means for electronically storing data in the remote data handling system and for receiving data from the medical device via the communication connection (Nelson; abstract, col. 5, lines 14-31, col. 7, lines 21-39); ...” The rest of the claim repeats the same limitations of claim 1, therefore are rejected for the same reasons given above and incorporated herein.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745 B2), Stawikowski et al. (hereinafter Stawikowski) (U.S. Patent Publication No. 2002/0046239 A1), Trusheim et al. (hereinafter Trusheim) (U.S. Patent No. 6,385,589 B1) and further in view of Official Notice.

A. Claim 15 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 15 is rejected for the same reasons given in the previous Office Action (paper number 9-10), and incorporated herein.



***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./  
Examiner, Art Unit 3626  
1/26/2010

/C. Luke Gilligan/  
Primary Examiner, Art Unit 3626